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The human rights situation in Myanmar

Report of the Secretary-General

Summary

The present report is based upon the good offices efforts undertaken by the Secretary-General and his Special Envoy, Razali Ismail, in attempting to facilitate national reconciliation and democratization in Myanmar, in accordance with General Assembly resolution 57/231 of 18 December 2002. The discussions that the Secretary-General and his Special Envoy have had separately with the Myanmar authorities during this reporting period continued to focus on the issue of how the United Nations can be of assistance in facilitating the national reconciliation process in Myanmar. During this period, the optimism that followed the lifting of the remaining restrictions on Daw Aung San Suu Kyi on 11 May 2002 dissipated. Contrary to the expectations of the Myanmar people, who are overwhelmingly in favour of change, and the United Nations, there was no substantive progress towards national reconciliation and democratization in Myanmar. Following the events in northern Myanmar of 30 May, which resulted in the detention of Daw Aung San Suu Kyi and other leaders of the National League for Democracy (NLD), Myanmar's embryonic and home-grown national reconciliation process, as understood by the United Nations, was halted. Daw Aung San Suu Kyi and other NLD leaders still remain detained and incommunicado at the time of this reporting. The Secretary-General remains gravely concerned about the safety and well-being of these NLD leaders and others detained after 30 May and reiterates his call for the Myanmar authorities to remove, without delay, all the restrictions imposed on their freedom of movement and political activities. He is also seriously concerned that the absence of

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progress in the process of national reconciliation and democratization is to the detriment of the Myanmar people, who voted for change in 1990 and deserve to experience the same benefits of economic, civil, social and political development as their counterparts in neighbouring countries. The Secretary-General reiterates his determination to do his utmost to revive the national reconciliation process if all parties are willing. He particularly appeals to the leaders of the State Peace and Development Council to release Daw Aung San Suu Kyi and commence substantive political dialogue with her immediately, so that national reconciliation and democratization in Myanmar can be achieved at an early date, with the participation of all the interested parties concerned, and in a way that brings immediate and tangible benefits to the Myanmar people.

I. Introduction

1. The present report is submitted in compliance with paragraph 6 of General Assembly resolution 57/231 of 18 December 2002, entitled "Situation of human rights in Myanmar", in which the Assembly requested the Secretary-General to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, to submit additional reports to the Assembly during its fifty-seventh session on the progress of those discussions and to report to the Assembly at its fifty-eighth session and to the Commission on Human Rights at its fifty-ninth session on the progress made in the implementation of that resolution.

2. As indicated in his previous reports, the role entrusted to the Secretary-General by the General Assembly is specifically that of good offices, as opposed to the fact-finding mandate assigned by the Human Rights Commission to the Special Rapporteur. In this context, the Assembly, by its resolution 57/231, welcomed the visits to Myanmar during the past year by the Special Envoy of the Secretary-General.

3. In implementation of resolution 57/231, the Special Envoy visited Myanmar twice during the reporting period, from 12 to 16 November 2002 and from 6 to 10 June 2003, in addition to the eight missions he had undertaken previously. During his November visit, it became apparent to him that the process of national reconciliation had stalled. Daw Aung San Suu Kyi and members of her party continued to travel around the country and to reopen party offices. However, there was growing harassment and increasingly violent intimidation of National League for Democracy (NLD) members and their supporters by the Government-sponsored Union Solidarity and Development Association. Despite some high-profile releases, the detention of members of NLD and other political activists has continued. Moreover, contrary to expectations, no high-level dialogue between members of the State Peace and Development Council (SPDC) and Daw Aung San Suu Kyi occurred. Following the incident of 30 May, when the NLD convoy led by Daw Aung San Suu Kyi was violently obstructed by pro-Government supporters, the dialogue process was halted.

4. The 30 May incident led to a modification in the mission of the Special Envoy's June visit from focusing on facilitating dialogue between the Government and Daw Aung San Suu Kyi for national reconciliation to primarily securing access to and the immediate release of the detained NLD leaders. In an attempt to achieve those objectives, the Special Envoy met with Vice Senior General Maung Aye and General Khin Nyunt, Vice-Chairman and Secretary-1 of SPDC, respectively, and requested to meet with Daw Aung San Suu Kyi and other NLD leaders and that all restrictions placed on them be lifted immediately. Other interlocutors on the Government side, whom the Special Envoy met during the visit, included U Win Aung, Minister for Foreign Affairs, U Khin Maung Win, Deputy Minister for Foreign Affairs, Colonel Tin Hlaing, Minister of Home Affairs, and U Than Aung, Minister of Education. During his November visit, the Special Envoy also met with Senior General Than Shwe, Chairman of SPDC. He was not able to meet with the Senior General during the June visit.

5. The Special Envoy was allowed to meet with Daw Aung San Suu Kyi briefly on 10 June, shortly before his departure on the last day of his five-day visit. After

the meeting, which took place within a prison compound near Yangon, he confirmed that Daw Aung San Suu Kyi was "well and in good spirits". Because of their detention, it was not possible for him to see other members of the NLD Central Executive Committee, including Chairman U Aung Shwe, Vice-Chairman U Tin Oo and Spokesman U Lwin, with whom he had met during his November visit. The Special Envoy's request to release Daw Aung San Suu Kyi and other NLD leaders immediately from detention was not granted. Likewise, he did not receive any indication from the Government of when they would be released, nor did he receive any indication as to when efforts to bring about national reconciliation and a transition to the restoration of democracy through dialogue would resume.

6. During his November 2002 and June 2003 visits, the Special Envoy had discussions with representatives of the ethnic nationality political groups, including the United Nationalities Alliance (UNA), as well as with certain members of the diplomatic corps, the United Nations country team and international non-governmental organizations in Myanmar, including the International Committee of the Red Cross (ICRC).

7. On his part, the Secretary-General conveyed his thinking on the national reconciliation process in a letter addressed to Senior General Than Shwe, who is also the Prime Minister of the Union of Myanmar, on 24 April 2003. The Secretary-General urged him to reinvigorate the national reconciliation process, while at the same time expressing his concern about the fact that the Government had not been able to arrange a visit for his Special Envoy since January 2003. After the events of 30 May, the Secretary-General wrote again to the Senior General on 4 June, expressing his serious concern about the evolving situation in Myanmar, in particular the safety, well-being and whereabouts of Daw Aung San Suu Kyi and other NLD leaders. In response, the Senior General sent his special envoy, Deputy Foreign Minister U Khin Maung Win, to deliver his letter to the Secretary-General. The Secretary-General received the special envoy at Headquarters on 16 July, at which time he handed to him an aide-memoire, which contained the major points of his message, to pass to the Senior General.

II. Contents of the discussions

8. The Myanmar authorities gave their view of the 30 May incident in their discussions with the Special Envoy in Yangon and in the Senior General's letter addressed to the Secretary-General. They maintain that clashes took place between the supporters of Daw Aung San Suu Kyi and local inhabitants opposing her when her motorcade was near the town of Dapayin on 30 May. With four people dead and 48 others injured in the clashes, the Government was compelled to take temporary measures to place Daw Aung San Suu Kyi and other members of NLD under "protective custody". Daw Aung San Suu Kyi and other NLD leaders, including Vice-Chairman U Tin Oo, are safe and well, according to the Government. At the same time, the Government claimed that it had obtained "evidence" of a "conspiracy plan coordinated by NLD with the insurgents at the border areas to create an anarchic situation similar to that which had prevailed in the country in 1988". The Government further alleges that the plan was due to have been successfully completed by 19 June, the birthday of Daw Aung San Suu Kyi, and that it envisaged the handing over of power three months later on 19 September. The Government maintains that Daw Aung San Suu Kyi is kept in a safe place and is no longer in the

compound of the Insein Prison, and that it is taking good care of her by providing food and clothes. According to ICRC representatives who have been allowed to see the detainees of the 30 May incident, U Tin Oo is also unhurt. However, the detention of Daw Aung San Suu Kyi under section 10 (a) of the 1975 State Protection Law, as understood by the Special Envoy, is worrisome, because that section allows the Government to detain anyone suspected of threatening national security for up to five years. The Government, while emphasizing that the restrictions imposed on Daw Aung San Suu Kyi and other NLD leaders are of a temporary nature, has thus far failed to provide the United Nations with any clear time frame as to when the restrictions will be lifted.

9. The Secretary-General and his Special Envoy told the Myanmar authorities that the United Nations and the international community were not convinced by the explanation that the Government had been forced to act because Daw Aung San Suu Kyi and her NLD colleagues were threatening national security. According to some eyewitness accounts and other information the United Nations has received, the 30 May incident was a premeditated ambush orchestrated by certain groups within the military.

10. The points that the Secretary-General and his Special Envoy made to the Myanmar authorities, both jointly and separately on several occasions since 30 May, were that: (i) Daw Aung San Suu Kyi and her NLD colleagues should be released without further delay; (ii) the Government is responsible for ensuring their safety, in or out of detention; (iii) all political detainees should be released and the freedom of movement and lawful political activities ensured; (iv) the only way to build durable peace in Myanmar is for the Government to take the initiative and start political dialogue immediately with Daw Aung San Suu Kyi and other parties, including representatives of the ethnic nationalities; and (v) although the events of 30 May have seriously undermined it, the national reconciliation process could be saved with efforts from all parties. The Secretary-General also welcomed the consistent position that the Association of Southeast Asian Nations (ASEAN) has taken on the issue and requested the Myanmar authorities to extend the necessary cooperation to the proposed ASEAN high-level mission.

11. During his last visit, the Special Envoy met with representatives of various ethnic nationality political groups, including those of UNA and the Committee Representing People's Parliament (CRPP). All of them voiced their serious concern about the detention of senior NLD leaders, anxieties about the lack of progress in the national reconciliation process and fear about their increased vulnerability following the 30 May incident. Those parties requested the United Nations to explore further measures to move the process forward. The Special Envoy also met with the National Unity Party, a pro-Government ethnic nationality political party.

III. Observations

12. **As a result of the events of 30 May and subsequent developments, the three-year-old home-grown process of national reconciliation, as understood by the United Nations, has come to a complete halt. The longer the detention of Daw Aung San Suu Kyi and other NLD leaders goes on and the longer sustained absence of substantive dialogue continues, the harder it will be to revive the process. Despite this prognosis, the Secretary-General continues to**

believe that dialogue remains the answer to the challenges confronting Myanmar today and that there is still a small window of opportunity at the present moment to save the process.

13. As the Secretary-General stated in his previous report, the objectives of ensuring stability and the multi-ethnic nature of Myanmar's society and pressing ahead with the transition to the return of democracy and other much needed reforms are mutually compatible. While recognizing the desire on the part of the Government to build a strong and stable nation that can withstand challenges to its territorial integrity, any system of governance is more stable and sustainable when it is flexible enough to accommodate diverse opinions and allow peaceful change. This is all the more necessary in the current international and regional environments, where rapid economic progress is accompanied by the requisite social change. The Secretary-General is convinced that the primary job of a Government is to ensure the well-being of its people with respect to human rights and fundamental freedoms, as well as to enhance the stability of the country.

14. The people of Myanmar have waited too long for change and for the benefits that change will bring. The Secretary-General therefore appeals once again to Senior General Than Shwe and other leaders of the Government to release Daw Aung San Suu Kyi and her colleagues without delay and to initiate immediately substantive dialogue with NLD. Dialogue that includes the ethnic nationality groups should occur soon after or in parallel. The Secretary-General continues to maintain that it is only through an all-inclusive dialogue that the Government of Myanmar will be able to ensure that national reconciliation is durable, the transition to democracy is smooth and Myanmar's future as a stable, prosperous and multi-ethnic nation is secure.

15. Unless the parties concerned are able to engage in substantive dialogue, the international community will have to conclude that the home-grown national reconciliation process no longer exists. It would then fall on the General Assembly to review the situation carefully and to provide, in its resolution, a clearer framework for further action by Member States and the Secretary-General as to how to help promote national reconciliation and democratization in Myanmar.

16. The Secretary-General is very grateful for the support that interested Member States, both inside and outside the region, have provided to him and to his Special Envoy. In particular, he wishes to commend the crucial role that ASEAN has played since its ministerial meeting in Phnom Penh in June. He has also noted the growing interest among certain countries in the region to help facilitate the all-inclusive democratic transition process in Myanmar. The United Nations, ASEAN and the international community at large must join hands in order to facilitate the democratic transition in Myanmar in time for 2006, when the country assumes the ASEAN chairmanship. For his part, the Secretary-General stands ready to do his utmost, together with all interested Member States, to reinvigorate the process of national reconciliation in Myanmar.